

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
and
THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION No :4573 of 2003

Dt:30.08.2005

Between:

Sisit Kumar Mishra

.. Petitioner

and

Union of India and others

.. Respondents

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
and
THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION No :4573 of 2003

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ORDER: (Per the Hon'ble Smt.Justice T.Meena Kumari)

This writ petition has been filed seeking a direction to the respondents to transfer the petitioner to INS Chilka and to implement the posting order, dated 21.04.1997,

issued by the Naval Head Quarters, New Delhi.

It is the case of the petitioner that originally he was appointed as Draftsman in INS Chilka. He was transferred to Port Blair in INS Utkrosh and completed three years of service there. Thereafter, he was transferred to Visakhapatnam. Later, at his request, through order, dated 21.04.1997, he was transferred to INS Chilka to work in place of Mr.P.V.Rama Rao. Hence, he joined his children in a School at Chilka, as they were getting education in Oriya medium. While so, one Mr.N.K.Chandran was posted in the place of the petitioner. Therefore, the petitioner filed O.A.N.1074 of 1997 before the Central Administrative Tribunal, Hyderabad (for short 'the Tribunal'). The said O.A. was disposed of on 03.11.1997 with a direction to make a representation to the authorities concerned within a period of two weeks from that date. In pursuance of the said order, he made a representation for implementing the order, dated 21.04.1997. But, no orders have been passed thereon. Aggrieved by the same, he filed O.A.No.1482 of 2000 before the Tribunal. The said O.A. was also disposed of directing the respondents to consider the representation of the petitioner, dated 13.05.2000. However, the same was unattended to. Therefore, again he approached the Tribunal by filing O.A.No.641 of 2001. The Tribunal dismissed the said O.A. with an observation that the transfer is a matter incidental to service and the petitioner is not justified in seeking a transfer to a specified post, particularly in view of the fact that he has 'All India liability'. It was further observed that it is obligatory on the part of the administrative authorities to consider the requests of the individual with regard to their transfer and it accordingly dismissed the O.A., through its order, dated 04.10.2001. Challenging the same, the petitioner preferred the present writ petition.

Heard the learned counsel for the petitioner as well as the learned standing counsel for the respondents.

The main grievance of the petitioner is that as he was transferred from Port Blair to Visakhapatnam, where the Oriya medium schools are not available, his children are deprived of the education. His case is that though he made representations to the authorities concerned for implementing the order dated 21.04.1997, the same were not attended so far. According to him, he had completed the tenure of more than three years.

The Tribunal, while dismissing the O.A., observed that the issue of transfer of

individuals is within the province of the administrative authorities. That being the matter, We do not want to interfere with the order passed in the O.A. Therefore, in our considered view, the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. However, We make it clear that as and when the petitioner makes a representation, the same may be considered in accordance with the rules.

(T.MEENA KUMARI,J

Dt:30.08.2005

P.LAKSHMANA REDDY,J)

kdl/ksld